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and listen for an approaching train does not necessarily, or as a matter of law, constitute negligence. This is the general rule. *Topeka, etc., Co. v. Cline*, 135 Ill. 41; *Eilert v. Green Bay, etc., Co.*, 48 Wis. 606; *Davis v. N. Y., etc., Co.*, 47 N. Y. 400. Quite a number of the states, however, hold that a failure to look and listen is negligence, *per se*. *Denver, etc., Co. v. Ryan*, 17 Colo. 98; *Phila., etc., Co. v. Hogeland*, 66 Md. 149; *Smith v. P. & R. Ry. Co.*, 160 Pa. St. 117; *McBride v. Northern Pacific Ry. Co.*, 19 Ore. 64; *The C. H. & I. Ry. Co. v. Duncan*, Admr., 143 Ind. 524; *Ga. Pac. Ry. Co. v. Lee*, 92 Ala. 262; *Johnson v. Chicago, etc., Co.*, 91 Io. 248. One Pennsylvania case went so far as to hold that, where a traveler approaching the tracks with a team, if unable to see them, he must get out and lead his team across. *Pa. Ry. Co. v. Beale*, 73 Pa. St. 509. Even in those states which consider a failure to stop, look and listen, contributory negligence, there are a number of things which excuse such failure. For example: where the party is thrown off his guard by some act of the company. *Grand Rapids, etc., Co. v. Cox*, 8 Ind. App. 29. When smoke and dust would prevent a view. *Chicago & Northwestern Ry. Co. v. Hansen*, 166 Ill. 623. Where snow, gale and wind prevent seeing. *Atchison, etc., Co. v. Morgan*, 43 Kan. 1. If fences and buildings are in the way of sight. *Randall v. Conn. River Ry. Co.*, 132 Mass. 269. In case a gateman is stationed at the track to warn people, in such case it is not contributory negligence to approach track with a team, and drive over in a trot. *Railroad Co. v. Schneider*, 45 Oh. St. 678.

SLANDER—PRIVILEGED COMMUNICATIONS—COMMON INTEREST.—ROSENBAUM v. ROCHE, 101 S. W. 1164 (TEX.).—*Held*, where an employer is requested by the father of a discharged employee, who, though of age, is living with her father as a member of his family, and under his care and protection, to state the reason why his daughter was discharged, the reply of the employer would be privileged; but if the employer voluntarily states to the father the reason why the discharge was made, the statement would not be privileged.

When the communication is made in good faith, without malice, in honest belief of truth, it would be privileged, *Fresh v. Cutter*, 73 Md. 91, but it must be shown that the words were spoken at such a time, and under such circumstances as to negative the supposition of malice, and plaintiff must prove the existence of malice as the real motive of defendant's language. *Buler v. Jackson*, 64 Mo. 589. When slanderous words are spoken with malice, they are not privileged. *Preston v. Frey*, 91 Cal. 107; but if, in answer to a request of the mother in regard to misconduct of a minor daughter, it is privileged, *Long v. Peters*, 47 Ia. 239, or if made voluntarily to one who has an interest in it, or one that has a reasonable duty to receive such information, *Erber v. Dun*, 12 Fed. 526, and if a statement is made in the discharge of a public or private duty, whether legal or moral, it is also privileged. *Moore v. Butter*, 48 N. H. 165.

STREET RAILROADS—ACCIDENT—CONTRIBUTORY NEGLIGENCE—CARE REQUIRED BY THE COMPANY.—HARRIS v. LINCOLN TRACTION CO., 111 N. W. 580 (NEB.).—*Held*, that the mere fact that the car was running at a rate of speed prohibited by the ordinance of the city does not of itself entitle plaintiff to recover.